

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:
Eugene Gorbatov et al.

Group Art Unit: 2623

App. Serial. No.: 09/910,574

Examiner: Annan Q. Shang

Filed: July 20, 2001

Phone No: [unknown]

Atty. Docket No: 42390P12150

Conf. No: 1414

Title: METHOD AND APPARATUS FOR ENHANCING TELEVISION
PROGRAMS WITH EVENT NOTIFICATIONS

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Commissioner for Patents
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Alexandria, Virginia 22313-1450

REPLY BRIEF
IN RESPONSE TO EXAMINER'S ANSWER

In response to the Examiner's Answer mailed on January 25, 2008, Appellant hereby submits this Reply Brief in support of its Appeal from the Final Office Action mailed July 18, 2007.

VII. ARGUMENT

In the Appeal Brief, Appellant pointed out that the Stettner reference does not teach or suggest that the event notifications or ATVEF triggers are transmitted over a TV channel that is different than the TV channel being displayed. The Appeal Brief also points out that the teachings for transmitting triggers over a different channel are only found in the present application. Accordingly, the Appeal Brief suggests that the rejections of the independent claims are based on hindsight reasoning, in view of the present application, rather than on any specific teachings in the cited art.

The Examiner's Answer asserts that the rejections are not based on hindsight reasoning. Incredibly, however, the Examiner's Answer actually cites to the Detailed Description of the present application in support of the assertion that it was prior art to transmit triggers over a TV channel that is different than the TV channel being displayed. A more explicit reliance on hindsight reasoning is difficult to imagine.

Specifically, the Examiner's Answer cites to page 6 of the present application, which states as follows:

In the present invention, the ATVEF Receiver may interpret a received trigger as an event notification of something of interest happening or about to happen in a program being broadcast on a channel other than the one currently being viewed.

Appellant most definitely agrees with the Examiner that the present application teaches that triggers may be transmitted over a TV channel that is different than the TV channel being displayed. The issue on appeal, however, is not whether the present application teaches that triggers may be transmitted over a TV channel that is different than the TV channel being displayed. The issue on appeal is whether the prior art includes such a teaching. As explained in the Appeal Brief, such teachings have not been shown.

For at least the foregoing reasons, the Final Office Action and the Examiner's Answer fail to make out a prima facie case of obviousness for any of the independent claims. In addition, the dependent claims implicitly include the features of the independent claims, and the dependent claims involve additional features that are not disclosed or suggested by the cited art.

Appellant therefore respectfully requests reconsideration of the present application and reversal of the rejections. If there are any questions regarding the present application, the Examiner and / or the Board is invited to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

Date: March 19, 2008

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